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# **Ethical Trading and Sri Lankan Labour Practices in the Apparel Sector**

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## **Ethical Trading and Sri Lankan Labour Practices in the Apparel Sector**

### **INTRODUCTION**

Geographical restructuring of the global economy sparked investigation into the unevenness of the global economy and its consequences for labour (Mezzadri 2014, Brooks 2010, Wills 2001). Asymmetrical power dynamics embedded in remapping capitalism with particular consequences for the global apparel industry has been examined since the 1980s (Elson and Pearson 1981, Hale and Wills 2005, Carswell and De Neve 2013, Miller 2012), where academics pointed out the compromised position of developing countries within global trade (Mezzadri 2014, Miller 2011, Hughes 2001, Nadhvi 2008).

Ethical trading and practices of corporate citizenship was the response of Northern retailers. Yet economic geographers articulated concerns around the efficacy of these initiatives, given the absence of labour voice (Sluiter 2009, Hale and Wills 2005). More recently the need to re-centre capital-labour relations within debates on global production systems has been brought to the fore (Carswell 2013, Carswell and De Neve 2013, Selwyn 2012, 2013, Mezzadri 2013, McIntyre 2008, Palpaucer 2008, Rainnie et al 2011). While social upgrading via economic upgrading is touted as an avenue facilitating improved labour conditions (Barrientos et al, 2011, Gereffi et al 2005), sceptics highlight the inherent contradictions of top-down social upgrading (Mezzadri 2014, Selwyn 2012, 2013, De Neve 2013, Blowfield and Dolan 2008, Palpaucer 2008, Mayne 1999). Scholars interested in re-centring the role of labour remark that existing academic efforts are limited and conceptually flawed because labour is neglected in preoccupations with firm level analysis (Rainnie et al 2011), and workers' actions are made secondary to institutional arrangements between capital and the state (Selwyn 2013). Selwyn (2013) in particular notes the absence of examining historical and local political struggles, shaped by evolving class relations, in determining how "greater competitiveness (economic upgrading) translates into gains to labour (social upgrading)" in these interventions (2013:79). Along similar lines others have pointed to how governance discourses fail to recognise inherent tensions in global governance initiatives (De Neve 2013, Ruwanpura and Wrigley 2011, Brooks 2010, McIntyre 2008, Palpaucer 2008), with misplaced assumptions around the nature of upgrading itself (Mezzadri 2014, Tokatli 2013). This neglect underpins my effort to critically engage with labour voice around ethical codes and its efficacy as a form of social upgrading.

Sri Lanka has been at the forefront shifting to higher value added apparel production by carving out a niche as an ethical sourcing destination in the global apparel industry. By adopting ethical trading initiatives early it has largely avoided the media negativity experience of its regional competitors (Knutsen, 2004). If the "social upgrading" mantra is pursued, these factors are undeniably conducive to labour engendering their work conditions. Despite escaping the 'sweatshop' spotlight, Sri Lanka's labour rights record is not without blemish as a recent global union report suggests (ITGLWF, 2011). By bringing labour into centre stage, my analysis aims to uncover complex interactions between economic upgrading, ethical trading and their intersection with local institutions and historical labour struggles – features neglected in the literature on global governance and social upgrading (Barrientos et al 2011, Gereffi et al 2005,). It takes a cue from critical labour studies to draw attention to multiple factors underpinning the country's movement towards an ethically grounded position and its contradictory impact on labour (Mezzadri 2014, Selwyn 2012, 2013, Palpaucer 2008,

Herod 2001).<sup>1</sup> Local labour histories and struggles are important precursors for shaping capital-labour relations within the country, including in the apparel industry. Hence pointing, as critical labour studies do, to how workers' lives and actions shape the economic landscape (Herod 2001, Rainnie et al 2011, Selwyn 2013, 2012). Their focus is primarily on capital-labour relations in contemporary times. In contrast, my paper also unpacks how historical gains made by the labour movement has facilitated the framework from which industrial capital continues to benefit – and indeed has created the socio-economic landscape which makes Sri Lanka “ethical”, as partial as it may be. This historical factoring also permits looking at more recent transformations in capital-labour relations and how, therefore, global governance initiatives and economic upgrading has not improved the position of workers in key spheres of living wages, freedom of association and collective bargaining (see also Miller et al 2009). My research underlies how the lack of worker voice and action in ethical trade initiatives leads to an incomplete ‘social upgrading’ and partial ethical code implementation. Yet historical gains made by labour has offered a conducive context for implementing “top-down” global governance initiatives with relative ease in specific areas and have facilitated Sri Lankan industrialists to position themselves as “ethical” – although its patchy application has much to do with the labour geographies past and present.

Sri Lanka's labour struggles and history has led to a socio-human development context that is enviable (Candland 2002, Jayawardena 1972). These attributes, I contend, also feed into the ability of the garment industry to make a difference to labour practices. Acknowledging this backdrop to appreciate intricate connections between management and labour underscores the point that global governance regimes do not operate in a vacuum. As labour geographers have already pointed out “outcomes of class struggles constitute historical moments, which once stabilized, determine the form and content that national institutional arrangements take, which in turn subsequently influence the nation's developmental trajectory” (Selwyn 2013:87; Herod 2001). The colonial and post-colonial capital-labour struggles were catalytic in shaping Sri Lanka's development trajectory, legal framework and institutional structure – which continue to reverberate positively. Yet Sri Lanka's integration into the global economy since 1977 has also had adverse consequences for organized labour and labour rights more generally – with an increasingly poor record for labour's collective rights (Gunawardana and Biyanwila 2008). Thus, this analysis will show that the apparel industry's efforts at positing Sri Lanka as an ethically sourced site is hence a partial branding exercise at best – which has benefited from a historical socio-development landscape. Yet capital gains and the labour reverses in the post-1977 open economic landscape has resulted in a flouting of its adherence to core conventions (and hence ethical codes) around freedom of association and collective bargaining, with concomitant implications for the lack of living wages for labour. This bias of Sri Lankan apparel sector's ‘ethical’ sourcing credentials suggests, as Selwyn (2013) notes, limitations to top-down global governance regimes as a means of “social upgrading”.<sup>2</sup> Similarly,

<sup>1</sup> Selwyn's (2012, 2013) critique of social upgrading literature is one that I have much sympathy with; yet, I part company with his analysis in two ways. The Decent Work agenda which Barrientos et al (2011) takes inspiration from is Sen (2000, 1999) – and this particular conceptualization is embedded in ontological individualism rather than being Polanyian (Corbridge 2002). Next, Selwyn neglects that the ILO as a tripartite body, even without the muscle power, is already engaged in fraught capital-labour-state negotiations. Unfortunately ILO's politics around its global convention are flattened in his analysis (see McIntyre 2008).

<sup>2</sup> In this paper I refrain from engaging with the GVC/GPN literature in any detail because of limitations already noted previously (Rainnie et al 2011, 2013, Selwyn 2012, 2013, Tokatli 2013, Palpaucer 2008). Moreover, similar to Kelly's (2001) observation, during my fieldwork it became apparent that while firms may be networked – internationally, regionally, and locally – labour and union networking is strongly discouraged and thwarted (2001:11). My time in Sri Lanka thus raised important questions on the deployment of the network metaphor and relational geography (see Sunley 2008).

questions can be raised whether ethical codes alone can make the difference for labour – particularly since Barrientos et al (2011) note how “quality of employment of employment is mediated...by the codes of conduct.” (2011:323).

I start the paper by briefly outlining the methods used in undertaking the research. Afterwards an overview of the Sri Lankan context illustrates the importance of its labour history and national-institutional environment in shaping its ability to uptake the “ethical” sourcing destination mantle. This backdrop responds to observations made by critically minded economic geographers who emphasize the need to consider the institutional context to appreciate how labour practices evolve in response to global governance regimes (Carswell and De Neve 2013, Rainnie et al 2011, Nadvi 2008, Sunley 2008, Palpaucer 2008, Smith et al 2002). This section feeds into the discussion section on lived experiences of workers on how ethical codes of conduct shape labour-practices. In its conclusion, this paper emphasizes the contradiction between ethical trading initiatives, economic upgrading and labour-practices given the absence of integrating labour voice.

## METHODOLOGY

Exploring how ethical corporate codes bear upon evolving labour practices at apparel production sites is the overarching purpose of my research. Elsewhere I have already shown how global governance literature neglects the governmentality implications of standards and how not appreciating local social hierarchies suggests a lack of commitment to worker welfare (Ruwanpura 2013, 2014a: see also Mezzadri 2014, De Neve 2013). Here I am interested in capturing the overarching story from the perspective of labour, particularly given the Sri Lankan apparel industry’s proclamations. Towards this end, my study combined ethnographic research at two factory settings for a 7 and ½ month period, in-depth interviews with managers, trade union and labour rights organizations and workers during several return fieldtrips lasting between two-to-three months which lasted until end June 2011, and weekly journal recordings by workers maintained over a one year period.

Located ethnography involved participant observation at two factories outside of the free trade zones and in semi-rural areas over a 7 and ½ month period by me, as the PI (2009-10) and a two-year stay by the RA. Additionally, I also did day visits to a number of other factories, large, medium and small, in various parts of Sri Lanka to get a picture of the industry. I followed up my initial located ethnographic phase with follow-up visits of three months approximately six months until end June 2011. This evolving fieldwork permitted conducting in-depth interviews, lasting between 35 minutes to an hour, with 90 workers at their residences over two years (2009-11). Alongside press articles and campaign material were collected for analysis. Both these factories were supplying to established high-street retailers in the United Kingdom and the USA, all identified elsewhere (Ruwanpura 2014a).

Relationships built with workers during the ethnographic phase aided requesting 25 workers to volunteer keeping a journal, recording weekly or fortnightly observations about their experience at the factories for a year. Although by the end only 20 workers had maintained it, workers had noted down their perspectives on evolving labour practices. A limitation was that everyday incidents considered ‘normal’ by workers were left out of the diaries and only transpired during our conversations with them. Fear was also a limiting factor for a couple of workers who were apprehensive that management may read their journals. Despite high literacy rates (91.3%), a few other workers were unwilling to write because they found the exercise dull. Despite these challenges, the diary was effective; this was particularly the case where workers had a history of diary-keeping,

creative writing and penning short stories. In these instances workers wrote voluptuous accounts. Overall, it allowed access to primary data that could not have been obtained by other methods.

In-depth interviews of 25 each from union and labour rights activists and managers were collected to supplement worker perspectives. Interviews conducted with management, NGO and union suggested that their views reflected how they made sense of their experiences (Bourdieu 1977). While these different constituencies' perspectives views may diverge, their insights were helpful for triangulating evidence. Therefore, in-depth interviews, diaries and participant-observation at two factories settings offered an unrivalled perspective to closely analyze the deployment of code governance.

## **LABOR STRUGGLES, UNEVEN DEVELOPMENT**

For development scholars, Sri Lanka was a paradigmatic case of low-growth, high social development with impressive gender equity outcomes at the macro-level (Sen 1988). While Sri Lanka is championed as an alternative mode of national development, historically the labour movement was crucial in shaping Sri Lanka's socio-economic development. Jayawardena (1972, 1974) contends many important protective labour legislative reforms implemented during colonial and immediate post-colonial years were the upshot of capital-labour struggles. Offering regular employment, ameliorating hazardous work conditions, and union rights were all concessions capital made towards labour during this epoch (see also Candland 2002). It was a time in which, as Herod (2001) critically remarks Sri Lankan worker activities created "spatial fixes appropriate to their own conditions and needs" (2001:35). These gains not merely shaped the economic landscape of yesteryear, but have also reverberated to contemporary times benefitting not simply labour but also capital.

Yet, sustaining or advancing on these gains with the advent of Sri Lanka opening up its economy in 1977 has not taken place – and sometimes has even deteriorated. Gunawardana and Biyanwila (2008) trace the ways in which Sri Lanka's integration into the global economy has resulted in the steady withering away of labour rights, particularly in the realms of freedom of association and collective bargaining. Despite this adversity, workers – and in particular women workers – engaged in sustained labour struggles in the post-1977 period pointing to the challenging circumstances under which they laboured in the newly set up apparel factories (Women's Centre 2006). In response to this resistance, the state – via the Board of Investment (BOI) – by the late 1980s introduced a raft of measures aimed at protecting workers, which included directives around safety and hygiene, offering factory-provided transportation for workers doing overtime, etc (Gunawardana 2010). Women workers involved in these early struggles articulate these noteworthy shifts by noting, "if today's worker comrades enjoy some privileges, our blood, sweat and tears are mixed in it" (Women's Centre 2006:19). As Herod (2001) observes, even where worker aims are thwarted "the very fact of their social existence and struggle means they shape the process of producing space in ways not fully controlled by capital" echoes for Sri Lanka too (2001:36). Sri Lanka's labour institutions and conditions then were already at a high standard prior to the implementation of corporate and multi-stakeholder initiatives in the mid-to-late 1990s (Sluiter 2009, Knutsen 2004, Candland 2002). Regulatory infrastructure imparted during British colonial rule and high socio-development achievements are also the product of union struggles at various epochs (Jayawardena 1972, Knutsen, 2004, Gunawardana and Biyanwila 2008). These facets signal that relations between capital, state and labour from colonial to current times are likely to have some bearing on the apparently admirable "ethical" trajectory the Sri Lankan apparel industry has cultivated (Goger 2012, Sluiter 2009, Ruwanpura and Wrigley 2011).

However, despite surpassing its neighbours' social development (HDI) indices, inequality persists within Sri Lanka. The country's gini coefficient at 0.565 and regional disparities illustrates uneven development processes which puncture Sri Lanka's otherwise admirable socio-human development record (UNDP 2011:14). It is within this context that the apparel industry transits towards economic upgrading, which are likely to have consequences for upholding all realms of ethical codes. Indeed persistent economic inequality within Sri Lanka raises pertinent questions on the efficacy of ethical initiatives in the realm of living wages – a point to which this paper will return later. The next section outlines Sri Lanka's apparel sector and its central import for the national economy.

### **SRI LANKAN APPARELS, STRATEGIC UPGRADING AND ETHICAL CODES**

Sri Lanka started promoting export orientated industrialization in the late 1970s, by initially setting up a free trade zone and subsequently the BOI to signal its seriousness as a globalized nation (Gunawardana, 2010). The garment sector grew through export-orientated industrialization, and it is the largest gross export earner since 1986 (Yatawara and Handel, 2007; Kelegama, 2005). In 1977 textiles and garments accounted for 2% of export value, with it increasing to 46% by 2009 and constituting 8% of GDP; employing 49.9% of the workforce, it is the largest employer (CBSL 2009, UN, 2009).

Between 2002 and 2009, the annual export value of Sri Lanka had increased 77% and total export value of apparels increased by 55%. Despite this, the share of apparels in total exports had declined from 47.77% in 2002 to 41.87% in 2010, with fluctuations in the interim linked to the global downturn. Apparel exports as a share of GNP has also consistently declined from 15.58% in 2002 to 7.23% in 2010 – which is similar to Asia's overall experience (Hurst et al 2010).

Dismantling the Multi-Fibre Arrangement in 2005 had important consequences for the global geography of clothing production in Sri Lanka. Industrialists consider the General System of Preferences (GSP and GSP+) introduced by the European Union in 2003 a lifeline (Saravananthan and Sanjeewani 2008), until its removal post-war in 2010. The dynamic nature of global garments has meant that despite the disquiet around losing GSP+, political upheaval in Bangladesh and increasing wages in China was a boon to Sri Lankan suppliers during my fieldwork (see also Goger 2012). In the post-MFA climate, in order to adapt to new global changes, Sri Lanka's apparel industry underwent a strategic shift towards higher value added production, marketing itself as a location committed to ethically responsible trading (Gunawardana 2010).

A 5-year strategic plan was developed for the garment industry in 2002 by the Joint Apparel Association Forum (JAAF), under which the '*Garments without Guilt*' initiative was put in place. Promoting Sri Lanka as a production destination concerned with ethical production, increasing workers' quality of life and poverty alleviation is its psalm. Sri Lanka hence portrays itself as evangelical about corporate social responsibility and respecting a strong labour legislative framework (JAAF, 2011).

Globally corporate social responsibility and ethical trading is perceived as offering the necessary impetus towards "ethical" sourcing (Barrientos and Smith, 2007). Codes of conduct are governed by both voluntary and multi-stakeholder ethical trading initiatives, ETI, FLA, WRAP, etc (Ranaraja 2004, Hughes 2001). These codes consist of the nine main provisions based on ILO conventions, but with no formal enforcement mechanisms (McIntyre 2008). This limitation coupled together with a neglect of labour voice within these frameworks results in what Selwyn (2013) notes as the assumption that capital does not exploit labour under a suitable institutional framework. The extent the shift towards ethical production has led to improvement in labour standards is already subject to scepticism



(Mezzadri 2014, De Neve 2013, 2009, Blowfield and Dolan 2008). Since Sri Lanka has strategically advanced to higher value added apparel production coupled together with niche marketing as an ethical sourcing destination, it necessitates greater attentiveness to labour voice. Indeed if one was to follow the social upgrading literature, Sri Lanka ought to be a litmus case for labour having made gains because of economic upgrading and ethical trading (Barrientos et al 2011). My paper seeks to explore if this has indeed transpired to be the case.

## ETHICAL BRANDING?

Within international consciousness Sri Lanka's adoption of an ethical stance towards global production is hailed as great success (O'Leary 2009, Karp 1999). This media portrayal or ensuing academic debates on social upgrading neglect the institutional complexities within countries (Barrientos et al 2011). In Sri Lanka, the country's historically forceful labour movement and union politics or indeed the legislative institutional framings are already identified as significant facets shaping the apparel industries evolution (Ruwanpura and Wrigley 2011, Knutsen 2004, Candland 2002). Despite this backdrop, the vicissitudes faced by labour unions in the post-liberalized also has a bearing on current labour conditions within the apparel sector. Consequently, the absence of a living wage and workers' inability to freely associate and collectively bargain are continually noted shortfalls by global unions and consumer campaign groups (ITGLWF 2011, Sluiter 2009). Such contradictions reflect how in order to properly understand the geographies of ethical trade, we must consider the role of firm networks, the state *and labour* in value creation (Smith et al, 2002). Or, our attentiveness to labour geography requires as Herod (2001) notes to unpick "the different strands to processes of globalization" (2001:132).

Historically labourers held a strong and respected position in Sri Lankan culture and politics (Candland, 2002, Jayawardena 1972). This political history has offered a bulwark for implementing ethical corporate codes of conduct. In particular, the code on "jobs should be well regulated in compliance with legal provisions" has been implemented to a high standard because labour legislation in the country necessitates this to be the case. All 90 workers we interviewed confirmed that formal and permanent contracts were offered to them from the inception.<sup>3</sup> Proponent of social upgrading argue that formal and secure employment offers appropriate conditions for the enforcement of other worker rights – including enabling rights. Barrientos et al (2011) in fact mention how "greater security of employment may increase their ability to participate in workplace-based trade union organizations and reduce their fear of reprisals" (2011:329).<sup>4</sup> As I show through my research later on this is moot at best – and unlikely to be followed through (see also Miller et al 2009).

<sup>3</sup> The worrying exception was a media item in the British press in the pre-Olympic era. It reported bus-loads of workers from central Sri Lanka being brought to the main free trade zone to meet tight production deadlines. While this news item hit the media after my fieldwork because by chance we had interviewed a number of workers from this factory, I was able to cross-check with my respondents whether there was any veracity to this news item – reported in the U.K. These respondents confirmed these reports, although it appeared that the different ethnic composition of the workers – those transported from central Sri Lanka coming from a minority ethnic group – also had a bearing on the unease felt by the permanent work cadre. [Existing ethnic cleavages between workers and how it bears upon the economic landscape is not pursued here; this is also because until recently (post-war) the workforce in the apparel sector were from the dominant ethnic group in the country (Lynch 2007; see Jayawardena (1973), Carswell (2013) and Herod (2001) for more on how various social groups intersect with economic shifts in contingent ways).]

<sup>4</sup> The choice of words used here is cautious and revealing – "work-placed unions" rather than industrial unions; although according to the ILO conventions as well as the codes, it is the right of workers to determine the kind of unions that they wish to form and join.

Workers with decades of experience in the industry, however, repeatedly noted improvements over the past decades – both in the way they are treated as workers and the conditions of production sites themselves. LH18, who has over three decades experience in the industry, stated that new workers are offered training via ‘induction’ where *‘new workers are told everything before releasing them for work’*. She went onto note how there is *‘huge difference between the ways in which we started and how they start now’*. In her view the culmination of worker struggles in the early phase of apparel production in Sri Lanka coupled together with state intervention and global governance pressure facilitated these changes.

National labour regulation and strong socio-human development also positively bear upon the base code of ‘zero tolerance for child labour’. This code stipulates that no person below the age of 14, or past the compulsory schooling age according to the law of the relevant country, should be employed. It also states persons below 18 should not be employed on night duty. Fieldwork suggested that birth certificates were checked prior to employment. Both LC4 and LB9 noted that their respective factories do not employ below 18, whilst LN1 indicates that although her factory employs workers over 17 years, if they are less than 18 years they are not pressured to work.

*“If a worker under 18 joins the institution by any chance a band is given to be stuck on the arm to show that he/she is under 18. No one can shout at such workers demanding production.”(LN1)*

Management and a few labour rights activist echoed similar sentiments:

*“I don’t think you’ll find a single factory in Sri Lanka where there is under age labour.” (MM5)*

*“In the realm of child labour, this isn’t a bane, by and large, which afflicts the industry.” (NLR2)*

Existing regulatory structures also bare on how the code relating to workers having the liberty to enter and exit employment are practiced. No worker reported or hinted that their birth certificates, identity cards or passports were kept as surety and those leaving at their exit interviews noted they were offered the opportunity to vacate employment after required notice was given. A worker keeping a diary for this research noted the following in her diary:

*“I resigned from the institution. I left because I got married on 10.06.10. I did not go to work after that.” (LQ31)*

Managers repeatedly mentioned that it was the workers prerogative to enter and exit employment (Ruwanpura and Wrigley 2011). Their views lead credence to Knutsen’s (2004) point that the legal frameworks provide a solid regulatory infrastructure vital in shaping Sri Lanka’s apparel sector landscape. Employers having to respond to labour are also necessitated by severe labour shortages they increasingly face. During my extended fieldwork, managers across rank – senior, middle and junior – as well as location, continually mentioned how the industry was facing insurmountable challenges in recruiting and retaining labour – with exceptionally high labour turnover (see also Carswell 2013). Cultivating their stature as fair employers was then imperative to attract and maintain their cadre, where championing reputational stakes as fair employers was important. This was in addition to Carswell and De Neve’s (2013) finding in Tirippur on employers paying bonuses around local festival periods, which is found in Sri Lanka too (2013:69). It reminds us how seemingly benign labour actions compel employers to respond in diverse ways, thus continually reshaping capitalist processes (Rainnie et al 2011:164).

An area in which global governance regimes had made a palpable difference is in the realm of structuring production sites and factory floors. How industrialists have taken initiative to implement “the opportunity to work in a healthy environment” code is visible in the built spaces.<sup>5</sup> LQ24 drew attention to improvements, claiming that *“There used to be only 3-4 toilets for about 60-70 people..., after the codes were implemented there has to be one toilet for every 3 workers.”* Furthermore, interviewees mentioned how they were offered adequate training in fire safety, first aid facilities and access to medical help.

Managers noted how labour legislation coupled together with existing national directives paved the way for the relatively strict implementation of ethical codes.

*“I mean those things [compliance] were very strict from the beginning in Sri Lanka because they were all monitored by three bodies: one BOI, two the labour department and also within the zones it was monitored by the zone authorities...the labour laws of the country are strict. Workers are well protected in Sri Lanka under the labour laws.”* (SM1)

Labour rights and union activists working in the free trade zones since the early 1980s offered a slightly more jaundiced view.

*“Our laws were important and effective... I wouldn’t, however underestimate the effectiveness of codes. It is a good scheme, although it is not implemented effectively in all realms.....conditions of some factories have improved. Today some factories are like tourist offices....today the cleanest place may be the toilet. Now factories have dinning rooms, gardens and many facilities for girls, etc; when the auditors come, they can see a nice environment.”* (NLR1)

*“It’s a way for factory owners to show that we are treating our workers very well. Our factory is like a hotel. But in reality, the AC is not for the benefit of our workers. It is because the fabrics need preparation in our country’s climate and to prevent machines heating. Also our impressive factories are used to show off to buyers.”* (ULR1)

In these accounts, there is a certain degree of scepticism as to the level of effort put on the built space. Yet they willingly or begrudgingly acknowledged that there were benefits to workers given the initiatives on part of the industrialists in the country.

There is, however, tension when implementing codes. Stresses stem from inequities embedded within the global production process (Hale 2000, Hughes 2001), signifying the need to re-focus understanding of local configurations as they confront the global economy. When production targets have to be met workers are forced to work overtime, with workers facing punitive measures, i.e. deduction of unpaid leave days or get into unpleasant arguments with supervisors, line leaders or floor managers – outcomes workers do not appreciate and which press against the spirit of the code on the prevention of forced labour (see also ITGLWF 2011; Miller et al 2009).

<sup>5</sup> Dunn (2003) points to how in the realm of health and safety there can be nuances in the reworking of management labour relations because its intersection with uneven geographical spaces; for the Sri Lankan study, elsewhere these disjunctures are registered (Ruwanpura 2013, 2014a).

*“When the assigned production target could not be met within the 8 hours, we were not allowed to leave the factory at the end of work hours until we finished overtime.” (LC4)*

*“Targets are very high. Sometimes there is no time to even drink water and no time to use the toilet.” (LN2)*

Production targets re-align conditions under which codes are implemented. On December 23<sup>rd</sup> the following entry was made in LQ4 diary:

*“Even though the institution claims that the workers of 17 years of age are not employed for the night shift they have been to work the night shift.....on that day of the visit by the inspector these workers of 17 years were given a holiday and sent home before their arrival. Most of the workers there had worked the night shift during the previous week.” (LQ4 diary entry)*

LQ4’s entry confirmed rumours we were privy to. It’s clear that the law is breached at times where production targets need to be met. Furthermore, the bid to show adherence to local labour laws and codes are keenly enforced when visits from auditors or labour governing bodies are scheduled.

*“One day a visit was paid by the labour department. Those days we almost continuously had OT until 10.30 pm. They came around 7.20 pm. As they came out senior officers at the factory had switched off the lights and sent the workers home – through the side entrance.” (LH6)*

Nadvi (2008) draws attention to the complexities inherent in the implementation process, arguing that for some retailers, codes of conduct were seen as a marketing tool. In this way, the extent to which corporate codes represent a genuine commitment to worker welfare is questionable. This is reflected in management accounts.

*“Its more than they (buyers) need to look after the workers. From the other side it is about covering themselves – there’s so much you know public outcry out there, that they are using cheap labour. So just to say that we have been sort of you know (done) ethical audits and to make sure that the factory abides by all these things, I think it’s more towards that than the companies (buyers) having a social consciousness.” (MM9)*

While certain codes have been relatively easy to uphold, commercial pressures embedded within the geographies of global production and the ways in which these processes intersect with uneven development leads to contradictory outcomes for labour. These factors also impact on other codes of conduct to such an avid extent that these codes are often simply not upheld. The partial application of codes in Sri Lanka where admirable steps have been taken by leading industrialists and local capital responses to labour geographies offers a more rounded perspective on labour practices on the factory floor.

## **PARTIAL BRANDING?**

Commercial dynamics and economic restructuring of global production has broken down traditional two season cycles and paved a fast fashion culture whose design, fabric and colour changes are translating into shorter lead times (Hale 2000, Tokatli 2013). While Sri Lanka, partly due to

geographical location has maintained traditional two-season runs, during the recession these cycles have come under increasing pressure – with small order quantities and short lead times. How labour experiences such processes is contingent on the ways in which suppliers respond to downward pressures. Under increasing global pressure, local capital strategies to reduce activities by labour that limit the valorisation process, including those related to social upgrading (Selwyn 2012). On the back of a recessionary downturn, increasing competitive pressure, shortening leads times and wanting to stay “ethical”, the Sri Lanka Apparel Exporters (SLAE) more recently have advocated changes in labour regulation to reduce the 45.5 hour working week from five and ½ days, where overtime is paid on Saturdays, to five days but increase the work day without premium payments (SLAE 2012).<sup>6</sup>

Since minimum wages stipulated annually by the State for the decade of 2000-10 does not reflect cost of living changes (i.e. inflation), the necessity of overtime for Sri Lankan labour has been shown elsewhere (Ruwanpura 2012).<sup>7</sup> However, at the two factories where my research was done basic wages were often above stipulated by the Wages Board Ordinance (WBO); it revealed that there are factories paying above government stipulated basic wages as a means of retaining workers.<sup>8</sup> Indeed it echoes labour geographers’ observations on how capital has to respond to labour geographies found in place – despite global pressures (Carswell and De Neve 2013; Rainnie et al 2013). Yet, if SLAE (2012) calls are anything to go by, capital is also constantly strategizing, at times at the expense of labour.

Workers recurrently stated that when overtime and incentives are not included their salary does not constitute a living wage. Overtime during the recession was either scarce or sporadic and incentive payments, as lead times have become shorter or order quantities low, is less likely because the probability of workers meeting production targets is rare. As LH20 notes:

*“When there is too much work, we can’t meet the targets that have been set. If for example there is damage on the item we are sewing at the moment, it is difficult to repair.... for some orders we had to meet targets of 200 items an hour, which is impossible and even when we meet our targets when there is damage, there have been times when we have not gotten an incentive.” (LH20)*

Despite payment of basic wages above state stipulated wage increments, the lack of a living wage in the basic wage structure was a constant bane, especially when there was no overtime or ‘covering’ days was used. If overtime is done on Saturdays or weekdays, Sri Lankan law requires workers to be paid one and a half times their hourly wage rate. Overtime on Sundays and public holidays requires payment of double the hourly wage (Sri Lanka Labour Gazette 2009:75).

<sup>6</sup> While the scheme is at pilot phase, the employers call for its formalization – where employers-employees agree. My research, as I demonstrate below, suggests that these propositions are likely to run contrary to the interests of workers, with the bitter irony that the proposals are partly a way of “staying ethical” at the industry level – although at a cost to workers.

<sup>7</sup> In Ruwanpura (2012) I have offered detailed information on the discrepancy between minimum wages and how it has not kept pace with inflation. I refer the interested reader to this work.

<sup>8</sup> This however may be the exception because an OXFAM survey for a larger geographical spread and sample size in Sri Lanka suggests that there is variation in salaries paid, which sometimes went lower than the minimum wages stipulated by the Wages Ordinance Board (Oxfam 2008).

During sluggish order periods, workers are given paid factory holidays. While factory holidays are granted with paid wages, workers are expected to 'cover' these days during peak seasons. These covering days may be on Sundays, on mercantile holidays or even by doing an hour or two of overtime during the week. When covering is in process, overtime isn't compensated for, despite workers working beyond nationally stipulated hours for their basic wage. For the workers this causes confusion and they feel cheated.

*"When they cut our wages they give all kinds of reasons. However much we work we don't get a proper salary." (LN2)*

*"Any work done on a Saturday after 1.45 pm was considered OT previously. Everyday there was an hour of OT till 5.30 pm when orders were high. When orders were low and during the recession they clocked us off us at 4.30 pm, saying that there was no work – or OT. On December 1<sup>st</sup>, which was poya day, they put it down as covering. There was no need for us to do a poya covering, because they treated the poya before that OT. Even we don't understand what they are doing with all this covering work?" (LH13)*

While factories uphold regular employment throughout workers' contracts, they do so by undermining stipulated national overtime regulations. Overtime holds a critical role in the workers' take-home wage packet. Workers' narratives indicated in most cases, wages were proportionate with cost of living **only** with overtime and incentive targets (see also OXFAM 2008). Previous research found instances of management avoiding paying incentives by setting impossible targets (ITGLWF 2011).

*"After working the whole week Sunday's the only holiday. That too was lost; we had to work because there was urgent work – and then we are always reminded of incentive payments. We were to finish work at 4.30pm, but that didn't happen. It was 10.30pm when we finished – Sunday night! Dead tired!" (LH22)*

The unfortunate upshot of short lead times and smaller quantities is that adjacent codes get violated. Ensuring the number of working hours is reasonable and evading harsh language and inhumane treatment are the most likely codes to be breached. Interviewees frequently complained that they deserved to be treated better.

*"If we are reluctant to do overtime she scolds us and ask us not to come to work again. She even takes it in writing from us that we stay for overtime any day at her order. Sundays are used for covering and workers have to forget their personal needs and come to work. So we are made to work by the administration, six days a week, nine hours a day at a stretch and then we are robbed of even Sunday, the compulsory holiday given to us." (LH1)*

*"I told him off – the supervisor. He tried to raise his voice at me and put pressure on me. I had given him the target in the past few days. Today they have started a new design and always it take time to learn something new and I was getting stuck – with mistakes being made. They give us small orders and expect us to meet targets from the first day." (LQ21)*

Many of the associated problems with regards to excessive over time and insecure monthly wages when it does not factor in overtime and incentive payments relates to the lack of a living wage in the country. Elsewhere I have illustrated the complicity between the state and the industry in the realm

of wage increments, which has never kept pace with inflation – barring election years – echoing previous findings (Sarvananthan and Sanjeevani 2008). Moreover, minimum wages in the apparel sector are recurrently more than 50% below that basic wages paid to low-end public sector workers (Miller and Williams 2009:100). Despite this connivance, the SLAE (2012) has been critical of recent calls by the Wages Ordinance Board to increase basic wages by 30% - presumably to thwart falls in real wages over the past decade. In their words *“We also need our policy makers to move the focus away from a minimum wage and start embracing the concept of a salary package that includes not just the basic wage, but at least the other productivity components that our industry pays, such as production incentives and attendance bonuses. This will help us to develop a pay structure that is based on productivity, enabling us to boost employee earning through better productivity”* (SLEA 2012). Such calls by industrialists and employers neglect the vicissitudes of pay structure to workers’ wage packet, as it exists, even with a minimum wage, and their inability to make a living wage.<sup>9</sup> It also contrasts with the image of ethically responsible garment sourcing. Unlike in historical Britain where liberal industrialists purchased into the value of a living wage for workers and its benefits to the economy or contemporary efforts (Wills 2009), Sri Lankan apparel industrialists are yet to make living wages a rallying cry. The social upgrading literature then fails to consider how code compliance is unlikely to take place in the realm of living wages merely through economic upgrading (Miller and Williams 2009; Tokatli 2013). Effectively, it fails to consider how ethical initiatives not only condition but are conditioned by labour rights, and the absence or negligence of labour rights in certain sphere is contingent upon uneven capitalist development (Selwyn 2012).

Insecurity around living wage issues for workers is connected to the ethical code the Sri Lankan apparel industry is least likely to uphold: the enabling code related to workers freedom to make alliance and collectively bargain (Miller and Williams 2009, McIntyre 2008). Sri Lanka is simply not a signatory to ILO conventions 87 and 98 on the right of workers to freely associate and collectively bargain, its own constitution guarantees every citizen the right to form and join a trade union, a fundamental right which “can not be restricted by any other law, regulation or provision, or by individual or corporate action” (Ranaraja 2004:18; see also Ministry of Employment and Labour 2002). In contrast to the word and spirit of fundamental rights, core conventions and ethical codes, the BOI advocates creating Employee Councils in factory premises (Gunawardana 2010). ILO’s Committee of Experts has already ruled that BOI guidelines contravene core conventions (Ranaraja 2004); yet it prevails. Thus, democratic forms of worker collectivization are thwarted.

Academics concerned with the pressures on organizing labour in an increasingly organized labour have thoughtfully debated the value of using employee councils as a form of worker representation (Wills, 2001). Worker Councils are seen as a form of non-union employee representation, designed to allow employee representatives to exchange information and consult with senior managers. This, in theory, would act facilitate the representation gap for employees and labour-led social upgrading through the rescaling of trade union organization. It potentially permits unions the opportunity to develop their own networks between workers and ought to result in collective bargaining (Wills 2001).

Although management interviews placed great value on worker councils as offering workers the chance to voice concerns, workers often expressed scepticism at their effectiveness. ITGLWF (2011) illustrated worker disillusionment with the ability of the worker councils to offer a space for

<sup>9</sup> The lack of a living wage, its bearing on overtime and the prevalence of malnutrition among women garment sector workers in the Katunayaka free trade zone has already been researched (Amarasinghe 2007), with women garment workers are the most affected occupation in terms of deficiency anaemia. The failure of ethical trade initiatives to produce a living wage is not simply its inability to assuage Sri Lanka’s deepening inequality but also potentially feed into malnutrition issues.

democratic representation. There were complaints that management were not taking them seriously and the workers' potential to change working conditions was deemed as relatively limited. One stakeholder promoting labour rights stated:

*'The ILO defines Freedom of Association as the right to form organizations 'of the choice of workers' and 'organizations of the choosing of employers' but worker councils are not this. They are provided by the BOI, convened by the management...it's not an organization as such...there is no democratic process'* (NLR25)

Our interviews also drew attention to the sincerity of council representatives and the ability of management to control council and committee members through individual benefits, a concern also highlighted by ITGLWF (2011). The workers' narratives revealed the case of LQ11, an officer within the union who had been promoted. Conversations with LQ11 revealed how trying to register a newly formed trade union faded away.<sup>10</sup>

*"The management will never listen to what the worker has to say. I have seen throughout my 10 years that everything happened according to the wishes of the management. They have never done anything that was suggested by the workers."* (LQ11).

*"Whenever a person who is on the welfare committee asks for leave it is always approved. If they ever ask for increments it is given to them. The workers are in cahoots with the management....when they are benefiting out of being there they aren't going to talk about all the issues faced by other workers."* (LQ26).

There was also fear of losing employment if one joined a union. LQ8 states in her diary that the workers were told that they could be *"expelled on even a small matter if we joined the union."* Similarly LH27 states workers had to provide written evidence that they would not participate in union activity. All of these actions by management are illegal under the Trade Unions Ordinance act and its amendments. It appears that employers are unlikely to rescind on unlawful action in the realm of ILO labour conventions 87 and 98 without state compulsion or labour unions regaining lost ground.

Coordinating and convergence of worker councils across firms or with industrial unions more usually tends to be deeply restricted (Brooks 2010, Wills 2001). Instead, worker councils tend to reproduce or be a conduit for management vision without any genuine consultation with workers. Consequently, these management driven agendas of Worker Councils offers limited or no possibilities for workers to voice their opinions and seek improvements in their collective rights (Wills 2001). In the absence of retailers not stressing the importance of workers' right to unionize, suppliers are unlikely to heed its call, highlighting the patchy compliance to ethical initiatives (Lund-Thomsen and Coe 2014, Miller 2011). In order for workers to freely form trade unions and engage in collective bargaining, there needs to be an extensive re-organization on the part of the suppliers' adherence to corporate codes. As Selwyn (2012) notes *"workers' ability to transform their structural and associational power in order to extract concessions from capital constitutes a core determinant of the relationship between economic and social upgrading"* (2012:13). Not doing so questions the efficacy of ethical codes to uphold all sphere of worker right, including the collective rights of labour

<sup>10</sup> This occurred in one factory setting of the fieldwork. A serious assault against a worker leads to workers' uprising, with a section of workers attempting to form a union through conversations and dialogue with the adjoining factory. Workers efforts at unionization was met with cajoling, intimidation and bullying by groups of management, leading to the assured and slow disbanding of the union (Ruwanpura 2014b).



(see also McIntyre 2008). The necessary pressures need to stem from the State as well as buyers; they both remain largely silent, equally complicit and just as culpable of thwarting these collective labour rights with negative implications for worker rights. Therefore, the way in which worker councils operate in practice is far removed from the spirit of the ethical codes, core conventions and indeed the fundamental rights of Sri Lankan citizens, including its working classes. Against this backdrop, SLAE (2012) calls for lengthening the workday via employer-employee agreement is even more spurious.

What the Sri Lankan scenario finds is that it is debatable whether ethical codes challenge capital-labour relations and if their theoretical underpinnings include genuine consideration of workers' rights. While there are many laudable aspects to initiatives within Sri Lankan factories, the accounts collected illustrate the partial nature of this exercise (see also Miller 2009 et al). Thus, despite Sri Lanka's long and powerful history of labour movements and shaping the economic landscape in ways which have been meaningful for generations of workers and benefitted capital (Herod 2001), its more recent losses has resulted in worker enabling rights taking a backseat. My findings illustrate that Selwyn's (2012) observation that institutional arrangements, such as ethical trade initiatives, are exemplary of class compromise within capitalism, and since they are continually subject to competitive accumulation it is hampered from indefinitely resolving the economic versus social upgrading dichotomy.

## COMPETITIVE PRESSURES & LABOUR CONDITIONS

The importance of the local context when focusing in on global trade dynamics is already stressed (Mezzadri 2014, Nadvi, 2008, Sunley 2008), with Hughes et al (2007) noting how corporate ethical agendas are differentially embedded in national institutional contexts. Through an appreciation of local context, the examples from production sites point towards the existence of contradictory relationships between Sri Lanka's uneven development, ethical trade initiatives and their relationship with the global supply chain. What is apparent is how the Sri Lankan garment industry is situated within a 'globally uneven terrain', complexly inflected with economic pressures and power imbalances. These disparities then enable local capital to exert pressure on labour and labour rights, leading to a corrosion of previous gains in fundamental labour rights. .

The presumption that economic upgrading will translate into social upgrading and improve worker conditions at production sites under appropriate conditions has been the focus of the social upgrading literature (Barrientos et al, 2011). Sri Lanka's experience posits a fundamental re-evaluation of the possibility of this notion where labour geographies are weakened and state-capital collusion prevails. Management interviews did not confirm that the shift towards higher value added apparel is supported by more stringent labour standards in all realms. When a manager was asked if moving into higher value added production has made a difference to worker wages the following response was given:

*"Even if they say they do more value added items and they make more money.....it never gets passed down to the workers you know...unfortunately **unless the government or labour laws** requires their minimum wages and grades of workers to go up...this is not an evident corollary."* (SM1)<sup>11</sup>

<sup>11</sup> In a rare public intervention, a similar sentiment was controversially expressed in a national newspaper by a CEO of an apparel sector group – with a call to apparel sector leaders to “take collective action and bold decisions” to uplift living standards of workers; noting the central import of workers as the sectors most valuable asset (Wijesuriya 2007:4).

His sentiments – more frank and honest – are contrary to the position advocated by SLAE (2012) but one that implicitly acknowledges power differentials inherent within capitalism. Equally tellingly a worker once on the production floor stopped and asked me the current foreign exchange rate; when I gave her this information, she quickly did the calculations noted on the price of a high-street bra – since full-packaging was the norm at both factories I was placed at – and pointed out the difference between what a consumer pays for a single item and her monthly salary on a good month. She also went onto say how as workers they are constantly harangued by supervisors that the embroidery, embellishment and quality are ways of securing Sri Lanka's privileged position globally and yet they are to see the benefits of this upgrading. Even though her intervention was rare, since no other worker ever pointed to that direct contrast to me during my time at the two factories, it also revealed that workers feel the absence of a living wage in multiple ways. Ethical adherence via economic and social upgrading then is at best a partial exercise (Miller et al 2009), and at worst fail in their agendas because there is limited acknowledgement of the tensions between capital-labour relations (Selwyn 2013). During our interviews, scepticism formed the bulk of workers' attitudes towards the codes, in part due to their distrust of management. The codes, in their opinion, were not a solution; it simply ameliorates the worse excesses.

Hale (2000) has argued codes of conduct can only have an impact if workers understand and use them as negotiating tools. Workers' awareness is therefore essential for its implementation, if there is to be some degree of strengthening labour rights and voice (Pearson and Seyfang 2001). By drawing on voices from the global south my purpose has been to call for refocusing academic debate around the importance of incorporating workers into discourses of ethics in international trade. At a mundane level, mobilizing workers is a necessity. In Sri Lanka we see powerful accounts of their scepticism over worker councils; unless the right to organize is respected, the power of workers' agency to shape change is limited. Kabeer (2004) rightly argues that it is important to research women's access to trade unions and their ability to stand up and voice concerns.

Overall, the Sri Lankan apparel industry has been in the vanguard and invested heavily and appropriately in its built space and physical infrastructure, a promising workplace scenario that factor into worker welfare – which is laudable and praiseworthy. The apparel industry has, however, also benefitted from state-led development aspirations and legislation of previous years – all consequences of unacknowledged championing by labour movements of yesteryear. These contributory labour geographies need registering as the emphasis on social upgrading interventions is less on local histories, labour struggles and institutional context, and more on “top-down” global governance (Selwyn 2012, 2013). Sri Lanka's social and human focused development from previous periods and existing laws regarding the compulsory education of children until 16 years, with state provided primary and secondary education, have been a boon to ensuring that child labour is eradicated. This is just one illustration of the unacknowledged role of how labour geographies in the past precipitated state action which became an important boon in shaping Sri Lanka's development landscape and provided the basis from which Sri Lankan suppliers have gone “ethical”. The partiality of this exercise is also due to the gradual erasure of the historical strength of the labour movement in post-liberalized Sri Lanka (Gunawardana and Biyanwila 2008). Consequently, in the realms of freedom of association, collective bargaining and living wages the state's complicity with industrial capital results in floundering workers' enabling rights. So, in contrast to the social upgrading literature which presumes that under “correct conditions” economic upgrading will yield benefits to workers and certain types of workers in particular (Barrientos et al 2011:329), what my research finds – in consonance with other labour geographers – is that relations between capital, labour and the state have a critical role to play in institutional arrangements and how they bear out for labour (Selwyn 2013, 2012, Carswell 2013, Herod 2001). Global governance regimes then require acknowledging how the state explicitly or implicitly sides with capital over labour or vice versa at different historical junctures – and how this evolving landscape shapes have important

consequences for labour gains or losses and the partiality of this capitalist development process. In the absence of such recognition, the silent role of the state in global initiatives is deafening; and not only does future research need greater orientation towards its character, but also an absence of analyzing the capital-labour-state triumvirate in social upgrading debates speaks volumes to its partiality towards firm-oriented (i.e. capital) solutions (Selwyn 2012; Miller et al 2009).

## CONCLUSIONS

In Sri Lanka there are instances where global governance initiatives have motivated improved work conditions within production sites. However, without contextualizing the institutional and historical legacies and exposing contradictions of ethical trading initiatives our understandings of capital-labour processes are partial.

My purpose was to trigger an exploration on the institutional dynamics, national labour regulation histories and inform the analysis of how these factors impact labour practice responses. Capital, as shown in this paper, not only try to wrest back historical labour gains, but also attempt to remould and reduce labour's bargaining and mobilisation power – and subordinate them to their own objectives. So while ethical codes of conduct may be an attempt at reshaping capital-labour relations to the benefit of capital, bringing labour perspectives into focus reveals a range of tensions inherent in implementing and upholding corporate codes of conduct. Despite Sri Lanka's national regulatory context, with its protective labour laws and high social human development – important country-specific contingencies mediate the impact of ethical codes to avoid the 'sweatshop' spotlight – contradictions are inherent in the lived experiences of garment workers. Yet, even where capital may seem to have the edge, management has to continuously allay and respond to some labour rights – at the least, cognisant that labour may respond in ways that it can not envision.

An appreciation of the local context has underscored the necessity for understanding Sri Lanka's uneven development processes and worsening inequalities when examining the impact of ethical trade initiatives on the apparel sector. The country's widening inequality has occurred in conjunction with the implementation of an ethical agenda. We have seen, from the workers diaries that a living wage is rarely provided in the garment industry. If a living wage is provided, it is often an offshoot of overtime. The failure of ethical initiatives to provide a living wage raises serious questions over its efficacy in improving labouring lives. It also brings to bear the partial labelling and makes moot the apparel industry's claim to produce 'garments without guilt' (JAAF, 2011), especially with regards to freedom to associate, collective bargaining and living wages.

Such an understanding serves to induce a critical awareness over state-capital-labour relations and how balance of forces within the tripartite has implications on various dimensions of ethical codes. The state's neglect in mandating wage increases for a decade that keep pace with inflation and employers' relentless push for lowering the labour floor means that ethical agendas remain limited in its desired effect. Similarly social development in health and education sectors are vital for ensuring an educated and healthy labour force; factors which offer a platform to Sri Lankan suppliers from which to trumpet its ethical strategies. This locally constituted understanding reveals the tensions inherent in the pursuit of an ethical agenda and challenges the accepted coalition between ethical programmes, industrial upgrading and improved labour conditions.

I illustrate the inherent danger in neglecting labour perspectives in ethical trade agendas. It also points to the central importance of social development, labour histories, labour regulation and in more recent times, the role of states' (in)action in centring discussions around labour rights. Without considering local labour histories and struggles, such initiatives risk being shaped solely by uneven

geographies of the global economy. Herein lie its importance as it attempts to re-centre labour voice from the global south in such debates.

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